IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
MONDAY, THE TWENTY EIGHTH DAY OF JUNE
TWO THOUSAND AND FOUR
PRESENT
THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY
and
THE HON'BLE MR JUSTICE GHULAM MOHAMMED

WRIT APPEAL NO : 1594 of 1994

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 26/04/1994 in WP NO : 20491 OF 1993 on the file of the High Court.)

Between:

M/s.Annapurna Enterprises
Plot.No.6,Industrial Estate Chittoor dist
Rep.by its Proprietor V.Eswaran.

.....
APPELLANT/PETITIONER

AND

1 The A.P.State Financial Corporation Tirupathi
rep.by its Branch Manager.
2 Sri B.Chandraa Naidu
Keerthi Rocks Ltd 24-41,IInd Lane,Lakshminagar Colony
Chittoor Chittoor Dist.

.....RESPONDENTS

For the Appellant:MR.E.KALYANRAM , Advocate

For the Respondent No.1 : MR.Y.N.LOHITA , Advocate

The Court Made the Following :

O r d e r:

This writ appeal is directed against the order passed by the learned single Judge of this Court in W.P.No. 20491 of 1993 dated 26-04-1994 where under the learned single Judge of this Court dismissed

the writ petition filed by the appellant herein.

The action initiated by the respondent-State Finance Corporation under Sec.29 of the State Financial Corporations Act, 1959 (for short 'the Act') proposing to sell the unit belonging to the appellant herein in favour of the 2nd respondent vide sale notice dated 27-10-1993 issued by the Corporation is challenged in the writ petition to declare the same as illegal, arbitrary and unreasonable.

The appellant with an intention to establish a modern Rice Mill in the A.P. Industrial Estate at Chittoor approached the 1st respondent-Corporation and sought for financial assistance by way of loan. The Corporation by letter dated 24-12-1982 had sanctioned a sum of Rs.4,22,600/- The appellant vide letter 11-1-1984 has hypothecated the properties and created an equitable mortgage in favour of the 1st respondent-Corporation. That as against the sanctioned amount of Rs.4,22,600/- only a sum of Rs.1,30,913-50 Ps. was released by the Corporation towards cost of building. The appellant claims that after completing the building, as per the understanding, the 1st respondent has to release the balance of loan amount for purchasing the machinery etc. The appellant has spent huge amounts for obtaining the plant and machinery but he could not succeed in obtaining the plant and machinery and requested the 1st respondent-Corporation to cooperate by releasing the balance of loan amount with revised payment schedule.

The case set up by the Corporation is that the term loan sanctioned to the appellant herein was liable to be repaid in seven half-yearly instalments. That on account of the non-supply of the machinery and on account of the non-acquisition of the machinery by the appellant, the Unit could not start functioning and the project was not implemented

by the appellant. The appellant thereafter made a representation to change the line of activity for undertaking manufacture of Match-sticks (matches) or for the manufacture of Footwear. The Corporation having found that the appellant intended to change his line of activity required the appellant herein to pay back the amount released by the Corporation and it is under those circumstances, the properties hypothecated in favour of the 1st respondent Corporation were brought to sale.

There is no dispute whatsoever that the appellant having obtained the sanctioned loan from the Corporation did not implement the project as per his own undertaking. The reason given by the appellant were not at all satisfactory and the Corporation having examined all the facts and circumstances, came to the conclusion that it has no option except to effect the sale of assets mortgaged/hypothecated in favour of 1st respondent for realization of the amount by proceeding against the appellant under Sec. 29 of the Act. This Court in exercise of its jurisdiction under Art. 226 of the Constitution of India does not sit in appeal over the decisions of the Corporation. That as held by the Supreme Court in ***Haryana Financial Corporation v. Jagdamba Oil Mills***[1] the scope of judicial review in evaluating of the action of the Corporation in exercise of the power conferred on it under Sec. 29 of the Act is confined to two circumstances i.e., (a) where there is statutory violation on the part of State Financial Corporation, or (b) where State Financial Corporation acts unfairly i.e., unreasonably. Admittedly there is no statutory inaction on the part of the Corporation. There is no such plea or any contention urged by the appellant. It is not even stated as to how the Corporation acted unfairly or unreasonably. The difficulty faced by the appellant for implementing the project, if any, have no bearing upon the 1st respondent-Corporation for realization of the amount sanctioned by the Corporation.

In the circumstances, we find no merit in the appeal. The action of the Corporation is not vitiated for any reason whatsoever. It is neither feasible nor desirable for this Court to set aside the sale notice issued by the Corporation as early as in the year 1993.

However, the balance amount, if any, available after adjustment of the loan amount, may have to be refunded to the appellant in accordance with law. The appellant shall make a representation in this regard to the Corporation within two weeks from today which shall be considered by the Corporation within eight weeks from the date of making of such representation and take an appropriate decision after taking all the relevant factors into consideration.

Subject to the observations as above, the writ appeal shall stand dismissed. No costs.

_____

B. Sudershan Reddy, J.

_____

Ghulam Mohammed, J.

Dt. 28th June, 2004.

Note:
Dispatch copy within three days.
/B.O/
grr

DEPUTY REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The A.P.State Financial Corporation, Tirupathi, rep. By its Branch Manager.
2. 2 CD copies.

---

[1] (2002)3 SCC 496